
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SUSAN CATLIN,

Plaintiff,

v.

SALT LAKE CITY SCHOOL DISTRICT, a
Governmental Entity, and MCKELL
WITHERS, Superintendent, in his official
and in his individual capacity,

Defendants.

**MEMORANDUM DECISION AND
ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:08-CV-00362-CW-PMW

Judge Clark Waddoups

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(B). (*See* Dkt. No. 42.) On January 25, 2013, Judge Warner issued a Report and Recommendation (Dkt. No. 269) recommending that the court deny Plaintiff's Motion for Leave to File a Supplemental Pleading (Dkt. No. 245), grant Defendant Salt Lake City School District's Motion for Partial Judgment on the Pleadings (Dkt. No. 188), and Defendant McKell Withers' Motion for Judgment on the Pleadings (Dkt. No. 190).

Judge Warner explained that, because Plaintiff is proceeding *pro se*, he has liberally construed her pleadings in accordance with the principle that courts should hold the pleadings of *pro se* litigants to a "less stringent standard than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotations and citation omitted). (*See* Rep. & Rec. 4 [Dkt. No. 269].) The court, in reviewing the Report and Recommendation and upon a *de novo* review of Judge Warner's findings, has also liberally construed the pleadings as required. Additionally,

because a motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure is reviewed under the same standard as a motion to dismiss for failure to state a claim on which relief can be granted under Rule 12(b)(6) of the Federal Rules of Civil Procedure, *Alt. Richfield Co. v. Farm Credit Bank of Wichita*, 226 F.3d 1138, 1160 (10th Cir. 2000), the court will only grant Defendants' motions for judgment on the pleadings if it "appears beyond doubt that the plaintiff can prove no set of facts in support of [her] claim[s] which would entitle [her] to relief." *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991) (quoting *Conley v. Gibson*, 335 U.S. 41, 45-46 (1957)). This includes application of the *Twombly/Iqbal* standard to Plaintiff's claims. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 676-79. But in preparing his Report and Recommendation, Judge Warner has not adopted, and the court in reviewing it will not adopt, the role of advocate for Plaintiff. *Hall*, 935 F.2d at 1110. Judge Warner, however, took Plaintiff's repeated complaints that she has difficulty communicating in writing seriously and solicitously granted her 28 extensions of time to file her objections to his Report and Recommendation, pushing the court's consideration and resolution of this issue well past a year since Judge Warner entered his Report and Recommendation.

The court has reviewed Plaintiff's numerous Objections and Supplemental Objections to Judge Warner's Report and Recommendation, as allowed by Judge Warner, the first of which was filed on October 1, 2013 as a result of the numerous extensions of time granted. (*See* Dkt. Nos. 334, 342, 347, 359, 369, 371, and 374.) These Objections, on whole, merely reemphasize grievances Plaintiff has raised about her claims and the process surrounding those claims in previous pleadings. These have been considered and rejected by Judge Warner. (Dkt. No. 269.) Plaintiff's Objections have not persuaded the court that Judge Warner erred in his findings in the Report and Recommendation.

Accordingly, upon a *de novo* review of Judge Warner's findings and analysis, the court APPROVES AND ADOPTS Judge Warner's Report and Recommendation (Dkt. No. 269), with the result that Plaintiff's Motion for Leave to File a Supplemental Pleading (Dkt. No. 245) is DENIED, Defendant Salt Lake City School District's Motion for Partial Judgment on the Pleadings (Dkt. No. 188) is GRANTED, and Defendant McKell Withers' Motion for Judgment on the Pleadings (Dkt. No. 190) is GRANTED. Plaintiff's Motion to Stay of Judgment by Judge Waddoups is also therefore terminated as moot. (Dkt. No. 377.)

SO ORDERED this 18th day of September, 2014.

BY THE COURT:



Clark Waddoups
United States District Judge